

**REMARKS/ARGUMENTS**

**CLAIM REJECTIONS UNDER 35 USC 101**

Claims 1, 23, 85 and 92, as now amended, are allowable under 35 USC 101. The limitation "using a processor in performing the following" is not in the preamble, e.g., it follows the word "comprising" and is intended to substantively limit the claim to require the recited "using a processor ...".

**CLAIM REJECTIONS UNDER 35 USC 112, second paragraph**

The claims have been amended to address the Examiner's concerns with regard to a processor being twice recited. Applicants respectfully submit, however, that the second instance of "a processor" was not in fact in the preamble, and because the first instance of "a processor" was in the preamble and not intended to substantively limit the body of the claim, then it was proper to recite "a processor" in its first instance in the body of the claim.

**INFORMATION DISCLOSURE STATEMENT**

A supplemental IDS is enclosed herewith to address the Examiner's concerns.

**CLAIM REJECTIONS UNDER 35 USC 102 and 103**

All of the claims are rejected under 35 USC 102 or 103 as being unpatentable over Takei (USP 5,353,058), either by itself or in combination with one or more other references. All of the claims now require identifying one or more groups of pixels that correspond to a face within a foreground region of the original digitally-acquired still image, wherein the identifying comprises one or more of sub-sampling and weighted sampling of the image, including reducing a number of pixels on which computations

are performed and, and wherein the identifying further comprises detecting the face in real time or near real time. This feature is not taught nor suggested by Takei nor any of the other references being relied upon by the Examiner.

First, Takei does not describe identifying one or more groups of pixels that correspond to a face. Takei only identifies flesh colors within digital images, but does not determine whether any identified flesh color pixels correspond to faces.

Second, Takei does not describe one or more of sub-sampling and weighted sampling of the image, including reducing a number of pixels on which computations are performed. Takei describes sub-dividing a digital image into, e.g., twelve areas. However, computations are performed by Takei on all of the pixels in the image. In contrast, Applicants' invention as set forth at Applicants' amended claims 1-15, 22-33, 41-55, 63-73 and 81-112 requires reducing the number of pixels on which computations are performed by one or more of sub-sampling and weighted sampling, thereby providing more efficient methods.

Third, Takei does not detect faces in real-time or near real-time. As indicated above, Takei does not even detect faces. Moreover, the time- and resource-intensive processes described by Takei simply do not permit real-time nor near real-time performance.

In addition, none of the other relied upon reference discloses these features.

Takei describes methods for making pre-acquisition adjustments in acquisition conditions or parameters, specifically exposure (see col. 8, line 430-col. 9, line 5). Takei provides a correction signal which serves to adjust detector sensitivity in sub-regions that include flesh colors and where backlighting is determined to prevail. In contrast, Applicants' invention as set forth at amended claims 1-15, 22-33, 41-55, 63-73 and 81-112 involves post-acquisition image processing or adjustment or modification of

values of pixels of an acquired image. For example, Applicants' provide methods based on calculations in view of comparing desired luminance with actual luminance of a detected face in an acquired image. Such post-acquisition image processing per Applicants' invention represents a different technological endeavor than making Takei's pre-acquisition adjustments to acquisition conditions or parameters, such as affecting exposure by adjusting detector sensitivity.

For the reasons set forth above, it is submitted that the application is now in condition for allowance. The Examiner's reconsideration and further examination are respectfully requested.

The Examiner is respectfully invited to call the undersigned attorney at 408-218-3315 in case the event that the Examiner believes that there are any unresolved issues with this case.

Please charge any additional required fee or credit any overpayment not otherwise paid or credited to our deposit account No. 50-4399.

Respectfully submitted,

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